

EXHIBIT

"1"

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID F. KELLY BEY,	:	No. 3:13-CV-1942
Plaintiff	:	(Judge: A. Richard Caputo)
	:	
v.	:	(M.J.: Susan E. Schwab)
	:	
DANIEL S. KEEN, MICHELLE WELLER,	:	
JESSICA STERNER-LENSBOWER,	:	JURY TRIAL DEMANDED
AND ISAAC BURKHOLDER,	:	
Defendants	:	(Electronically Filed)

AFFIDAVIT OF FRANKLIN COUNTY JAIL WARDEN DANIEL S. KEEN

Daniel S. Keen, being duly sworn according to law, hereby deposes and states as follows:

1. I am currently the Warden of the Franklin County Jail (FCJ). I have held this position since May 2, 2011.
2. As Warden of the County Prison (Jail), my duties are to supervise and direct the work and the staff required of the department, to oversee the complete operations of the facility, and to develop and implement policies for the overall efficiency and orderliness of operations.
3. Exhibit “4” in the Appendix of Exhibits in Support of the Motion for Summary Judgment is a true and correct copy of the Franklin County Jail Standard Operating Procedure on Religious Programming and Activities.

4. Exhibit "14" in the Appendix of Exhibits in Support of the Motion for Summary Judgment is a true and correct copy of the Franklin County Jail Standard Operating Procedure on Food Service.

5. Jessica Sterner-Lensbower is Director of Treatment for the Franklin County Jail. As Director of Treatment, her duties include: overseeing case management services provided to inmates and responding to the first state of the inmate grievance process.

6. The FCJ provides general population inmates with a dietary plan which operates on a four (4) week cycle [hereinafter "General Population Meal Plan" or "General Plan"], comprised of both meat and vegetarian items. The General Population Meal Plan has been approved by a Licensed Dietician-Nutritionist, who has affirmed that the meals provide a nutritionally adequate diet averaging 3000 calories per day, satisfying the Recommended Dietary Allowances for major nutrients required for adult males.

7. The General Population Meal Plan does not contain pork, pork by-products, or pork derivatives, and contains no blood, carnivorous animals, reptiles, or insects, and no alcohol.

8. I have been assured by kitchen staff and Trinity Services Group, Inc., that the ingredients in the General Population Meal Plan comport with the guidelines for provision of a Muslim religious diet, as well as those for a Moorish

American religious diet, and any other religious denomination whose tenants prohibit the consumption of swine.

9. The Franklin County Jail General Population Meal Plan was chosen after deliberation and consideration of the most cost effective manner to satisfy the dietary needs of the broadest segment of the inmate population possible using a single meal plan. Such improves efficiency in the food service of the jail, and reduces the cost of food service.

10. The determination not to include any pork, pork by-products, or pork derivatives was a conscious choice, given the prescription in several of the world's religions against the consumption of pork. It was hoped that by removing all pork derivatives from the menu, and thus from the kitchen facilities at the jail, the needs of the vast majority of the inmate population could be met via a single meal plan, with meals prepared inside the FCJ.

11. Use of the general meal plan simplifies food preparation and increases efficiency, as there are no novel or unique ingredients that are served to some persons and not to others. The General Plan also allows the Jail to service the dietary needs of inmates with only three (3) full-time and one (1) part-time kitchen staff.

12. Each meal prepared for the General Population Meal Plan costs approximately \$1.18/tray.

13. The single and encompassing meal plan also reduces the need for security checks for deliveries of kitchen supplies, as the ingredients of the meals are the same and are all delivered at once, seventeen (17) times per month, from the same provider. Because all ingredients are delivered simultaneously from the same provider, the General Population Meal Plan also reduces the number of staff necessary to conduct security checks of food deliveries, and the frequency of such checks. As such, the General Population Meal Plan increases the security of the institution.

14. Thus, the General Population Meal Plan serves to reduce food service costs, simplify meal preparation, and improve efficiency and security.

15. Kosher meals are provided for Jewish inmates separately from the General Plan, due to the complexity of kosher law, and the requirement that all kosher meals be prepared in a kosher kitchen, with kosher utensils and implements, and cannot even be permissibly heated in a non-kosher oven. Based on the prohibitive cost creation and maintenance of a kosher kitchen inside the FCJ would entail, Jewish inmates requesting a kosher diet are provided with a separate kosher menu, consisting of pre-packaged meals prepared off-site, which arrive double wrapped in accordance with Jewish law. FCJ officials did not make any election with respect to the contents of the kosher meals, such being dictated by the

provider in accordance with federal nutritional guidelines. Each kosher meal costs \$5.00.

16. The determination to purchase pre-packaged kosher meals was the most cost effective means to provide for the dietary needs of Jewish inmates, given the prohibitive cost of creating and maintaining a kosher kitchen inside the FCJ. Additional costs including training on kosher law and cooking, procedures to prevent contamination of the kosher utensils and cooking implements, and the necessity of rabbinical inspections, were also considered.

17. If the FCJ were required to provide a specific “Halāl Meal Plan,” much of the benefits of the General Population Meal Plan would be removed, as multiple plans would be prepared in the FCJ kitchen. This would complicate food service, require the hiring of more kitchen staff, and adversely affect efficiency.

18. Because the needs of Muslim inmates are satisfied by the General Population Meal Plan, if a “Halāl Meal Plan” were required, the FCJ would also need to provide a “Buddhist Meal Plan,” “Sikh Meal Plan,” and other meal plans for various faiths which are all now provided by the General Population Meal Plan and/or Vegetarian/Vegan Meal Plans.

19. A separate ‘Halāl Meal Plan’ would be an enormous expense, and would place a substantial strain on prison resources, impacting the ability of the FCJ to provide other services to inmates. The jail would be required to reduce the

number of correctional officers employed, as well as reduce the rehabilitative and educational services provided to inmates, thereby affecting the institutional order, and the safety and security of remaining staff and the inmate population.

20. The budget of the FCJ would be severely strained if the institution were required to separately provide halāl meat for prisoners. Additionally, greater numbers of correctional officers would be needed to check the deliveries and maintain security, but the funds needed to purchase the meat would actually require a reduction in the number of staff employed by the jail.

21. The Franklin County Jail employs the services of a single full-time religious Chaplain through Prison Ministries, at a minimal cost of fifteen-thousand dollars per year. The remaining religious services provided are via volunteers, who donate their time to the institution.

22. A true and correct copy of the contract with Prison Ministries is attached hereto as Exhibit "A".

23. A true and correct copy of the Franklin County Jail Standard Operating Procedure for Volunteers is provided in the Appendix of Exhibits in Support of the Motion for Summary Judgment as Exhibit "16".

24. There is no full-time Rabbi to service Jewish inmates, Apostle to service Mormon inmates, Preacher to service Protestant inmates, Monk, Lama, or Scholar to service Buddhist inmates of various sects, Brahmin to service Hindu

inmates, or Guru to service Sikh inmates. There is no full-time Shia Muslim cleric. There is also no full-time cleric to service Eastern Rite Catholic inmates, Asatru inmates, Native American inmates of various tribes, Rastafarian inmates, Roman Catholic inmates, Eastern Orthodox inmates, or Wiccan inmates.

25. The FCJ simply does not have the financial resources to compensate the clerics of any religious organization or sect to provide religious services to inmates. Because of the limited budget, if the FCJ were to compensate the clerics of various faiths, sects, and sub-sects thereof for providing religious services, it would be unable to provide other vital services to inmates.

26. Given the jail's operational budget, retaining full-time religious personnel for all religious groups represented therein would be simply impossible without drastically reducing the number of correctional officers employed and the rehabilitative services provided by the institution. Possible services which would need to be reduced or eliminated include educational (GED) programs and treatment programs. Such would threaten institutional order and the safety and security of the remaining staff and inmate population.

27. The jail has a policy, which is strictly followed, of not requiring inmates to participate in religious services, and not favoring one type of service over another. The services of both the Chaplain and the Volunteer Clerics are to

The foregoing is based upon my personal knowledge and I am competent to and would testify to same if called as a witness at the trial of this matter.

Date: 11/4/13 *[Signature]*

Sworn to and subscribed before
me this 4th day of
November, 2013.

Notary

Melyssa H. Flud

